Lower Joseph Creek Restoration Project

Tribal Relations Specialist Report

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Prepared by:
Amy A. Gowan
Tribal Relations Specialist

for:
Wallowa Mountain and Hells Canyon Ranger District
Wallowa-Whitman National Forest

Contents

Introduction

The Wallowa-Whitman National Forest, including The Lower Joseph Creek Restoration Project (LJCRP), contains lands ceded by the Nez Perce Tribe in 1855 through Treaty with the United States. Although tribal lands were ceded to the Federal Government, tribal sovereignty and treaty rights were reserved.

The Forest Service, through the Secretary of Agriculture, lies within the Executive Branch of government and therefore has a trust responsibility to consult, cooperate, and coordinate with federally recognized tribes regarding decisions or policies that have the potential to affect tribal interests. The Forest service is also vested with a statutory authority and responsibility for managing natural resources on National Forest system lands. These natural resources equate to treaty resources and are part of the "traditional economy" valued by the Nez Perce Tribe (Nez Perce Tribe Executive Committee, July 8, 2014).

The rights reserved by the Nez Perce Tribe include fishing, hunting, gathering, and grazing. Reserved rights include the exclusive right of taking fish in all streams where running through or bordering the reservation, the right of taking fish at all usual and accustomed places in common with citizens of the territory, and of erecting temporary buildings for curing, together with the privilege of hunting, gathering roots and berries, and pasturing their horses and cattle upon open and unclaimed land (Article III: of the 1855 Nez Perce Treaty).

The LJCRP also lies within the traditional territory of the Chief Joseph Band of the Nez Perce. The Chief Joseph Band of the Nez Perce is a constituent member of, and, represented by, the Confederated Tribes of the Colville Reservation. The Confederated Tribes of the Colville Reservation was created by the Executive Order of 1872 as amended by the North-Half Agreement of 1891. The Chief Joseph Band of Nez Perce had their winter home within Joseph Canyon. The Colville Business Commission (CCT) delegated to the Tribal Historic Preservation Officer (THPO) the responsibility of representing the CCT with regard to cultural resource management issues throughout the traditional territories of their constituent tribes (letter correspondence, January 17, 2014 Guy Moura, THPO).

The exercise of treaty rights is dependent upon access to traditional hunting, fishing, and gathering sites and the resources associated with them. Sustainable populations of treaty resources, such as fish, wildlife, clean water and traditional plants, depend upon healthy habitats and resilient landscapes. While the Forest Service doesn't manage resource populations, land management decisions may affect the ecosystems wherein valued tribal resource habitats and natural settings are dependent.

Regulatory Framework

Tribal Consultation

Forest Service Policy

FSM 1563.03

- Maintain a government-to-government relationship with federally recognized Tribes.
- Coordinate Forest Service land and resources management plans and actions with tribal land and resource management plans and actions to promote the health of ecosystems.
- Consult with Tribes on matters that may affect tribal rights and interests

FSM 2020.3

- Develop goals and objectives within the framework defined by laws, Indian treaties, regulations, collaboratively developed public and Indian tribal values and desires, historical conditions, current and likely future ecological capabilities, a range of climate change predictions, the best available science, information, and technical and economic feasibility

Federal Legislation

The Forest Service Tribal consultation process is guided by a variety of laws, Executive Orders, and Memoranda including:

- Federal Trust Responsibilities tied to Treaties and federally recognized Indian Tribes
- National Environmental Policy Act (NEPA),
- National Historic Preservation Act (NHPA).
- Archaeological Resources Protection Act (ARPA)
- American Indian Religious Freedom Act (AIRFA)
- National Forest Management Act (NFMA)
- Executive Order 13175--Consultation and Coordination with Indian Tribal Governments
- E.O. 13007 Accommodation of Sacred Sites
- E.O. 12898 Environmental Justice
- Presidential Memorandum on Tribal Consultation reaffirming E.O. 13175.
- Food, Conservation, and Energy Act of 2008 (Sec. 8106) exempting confidential information from Freedom of Information Act requests

Early and often consultation between the Wallowa-Whitman National Forest and the Nez Perce Tribe is an essential first step toward building relationships and mutual understanding regarding how land management decisions and actions may affect tribal interests. A consultation agreement between the Forest Supervisor and the Nez Perce Tribe Executive Committee (NPTEC) implements protocols that guide staff to staff and Government to Government level interaction, process and decisions.

All alternatives are in compliance with the Wallowa-Whitman Forest Land Management Plan direction and relevant laws, regulations, an policies listed above

Methodology

Basis for Evaluation of Effects

The Tribal Relations analysis uses a qualitative approach by comparing relative effects for each alternative with a focus on the Nez Perce Tribe's values associated with the their "Traditional Economy". This is an economy that is guided by tradition, beliefs and practices associated with a subsistence lifeway dependent upon fishing, hunting and gathering of treaty resources.

Values associated with the traditional, cultural and contemporary beliefs and practices surrounding land stewardship are of utmost importance to the Tribe [(Nez Perce Tribe Executive Committee (NPTEC), January 28, 2014 Scoping Comments; Appendix X, Government to Government consultation (NPTEC meeting, July 8, 2014) and ongoing staff to staff coordination]. The Tribal Coordination and Consultation Record can be found in the Project Administrative Record (Appendix H).

The following Tribal Relations effects analysis considers risks to the conservation of the Nez Perce traditional economy by taking into account rights, values, beliefs, and attitudes as derived from tribal input referenced above. Not all of the values, beliefs and attitudes are addressed in this analysis. However, the information shared through comments, consultation and staff to staff coordination provides the best information available. According to Allen et al (2009) values are "relatively general, yet enduring, conceptions of what is good or bad, right or wrong, desirable or undesirable." Beliefs are "judgments about what is true or false and may be linked to effects." Attitudes are "tendencies to react favorably or unfavorably to a situation, individual, object or concept" (LJCRP Socioeconomics Report, Loughery November, 2014). However, the Tribe "recognizes" facts or issues, rather than "believes" them (April 10, 2015 Response to Scoping comments).

Some tribal comments, concerns, values and beliefs required interpretation by the author in an effort to more fully describe and disclose effects to Tribal values by alternative. In all cases the author studied the tribe's public comment responses, as well as issues shared at government to government consultation, or staff to staff, coordination meetings.

Nez Perce issues to be analyzed for effects are summarized below in Table 1: Nez Perce Comments Considered for Analysis. The Tribal Relations column includes issues oriented to traditional cultural values and will be addressed in this report. The Natural Resources column summarizes issues that are tied to tribal concerns regarding management of treaty resource habitats and ecological conditions relative to Wildlife, Hydrology, Aquatics, Silviculture, Road Management, Old Growth, and Botany values as shared in corresponding specialist reports. Tribal issues specific to Heritage or Cultural Resource management are addressed in the Heritage Resource Specialist Report.

Table 1: Nez Perce Comments Considered for Analysis

TRIBAL RELATIONS	NATURAL RESOURCE
Impacts on hunting, fishing and gathering	Harm to treaty resource habitat (see all resource effects sections)
Need to address the true value of the landscape beyond economics	No treatments in riparian area unless demonstrate positive effects (see aquatics and hydrology effects sections)
Concern for water developments impacts *	Abandoned roads, run off erosion, sediment delivery; road decommissioning needed (see hydrology and soils effects sections)
Maintain old growth legacy trees	Properly functioning watersheds (see hydrology effects sections)
Federal compliance of treaty responsibilities *	Want upward trend in fish habitat, water, riparian conditions (see aquatics, hydrology, botany sections)
Resource risks of accelerated planning and restoration	Road density/road placement and relative to treaty resource values (see all effects sections)
Maintenance of administrative access and wildlife connectivity to the adjacent Precious Lands Wildlife Management Area *	Concern for ESA wildlife and native plant resource condition (see wildlife and botany effects sections)
Impacts to traditional plant resources, including the "traditional economy" of the Nez Perce Tribe (NPTEC meeting 07-08-14)	Impacts to fish strongholds, particularly from roads and disturbance in RHCAs (see aquatics, roads, botany effects sections)
Conservation of inventoried road less areas	Achievement of riparian mgt objectives (see aquatics effects section)

Likely Traditional Cultural Properties, sacred sites and traditional use areas in project area. Need traditional use studies	Adequate heritage inventory to ensure protection during project implementation (See heritage effects section)

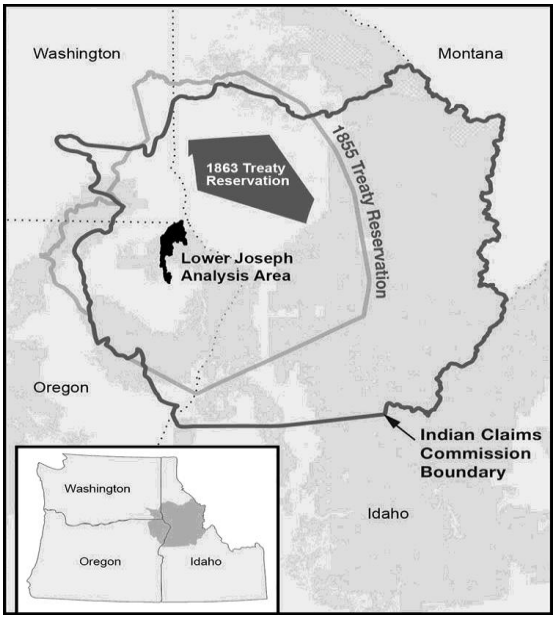
*** Issues or concerns not analyzed for effects as they may be addressed outside environment analysis through ongoing consultation, partnerships or policy direction**

Affected Environment

Existing Condition

In the (LJCRP) area, decades of fire suppression and past land management activities have resulted in overstocked stand conditions, reduced forage productivity, degraded wetlands and springs, reduced grassland extent, and increased ladder fuels relative to historic range of variability (HRV) and anticipated future conditions. Dry and moist upland forest types in the project area are showing a deficit of open stands dominated by large trees of ponderosa pine, larch, and Douglas-fir. Standing and down dead trees were also an important component of these stands. The purpose of the LJCRP Lower Joseph Creek is to restore, maintain, and enhance forest and rangeland resiliency to natural disturbances, protect natural resources at risk to uncharacteristic wildfires and insect and disease outbreaks, modify fire behavior potential, and improve future forest, range, and fire management opportunities

Figure 1: Ceded Lands and Indian Claims Commission Lands Map



The aboriginal territory of the Nez Perce Tribe, also known as Nimiipúu, or "the people", includes large portions of the States of Idaho, Washington, Oregon, Montana and Wyoming. Through time and tradition, the Tribe has acquired and applied traditional ecological knowledge, as well as the latest science, to design and implement ancient and contemporary tribal stewardship objectives.

The Nez Perce way of life has always depended on their traditional economy including inherent right of tribal members to fish, hunt, gather, pasture animals and rely upon the land for subsistence and traditional and cultural practices. Article III of the Treaty of 1855 provides for: "The exclusive right of taking fish in all the streams where running through or bordering said

reservation is further secured to said Indians; as also the right of taking fish at all usual and accustomed places in common with citizens of the Territory; and of erecting temporary buildings for curing, together with the privileges of hunting, gathering roots and berries, and pasturing their horses and cattle upon open and unclaimed land"(Treaty of 1855, 12 Stat, 957).

Prior to Euro-American settlement, and continuing into the treaty era and present day, the Nez Perce Tribe have played a significant role in shaping the physical environment of their aboriginal homelands. "Wild" horticulture involving intentional "firing" of forests and prairies was used to improve hunting and "berrying" as well as increase the quantity and quality of camas, and other root and bulb species (Marshall 1999) resulting in a reliance on predictable, managed and sustainable subsistence resources.

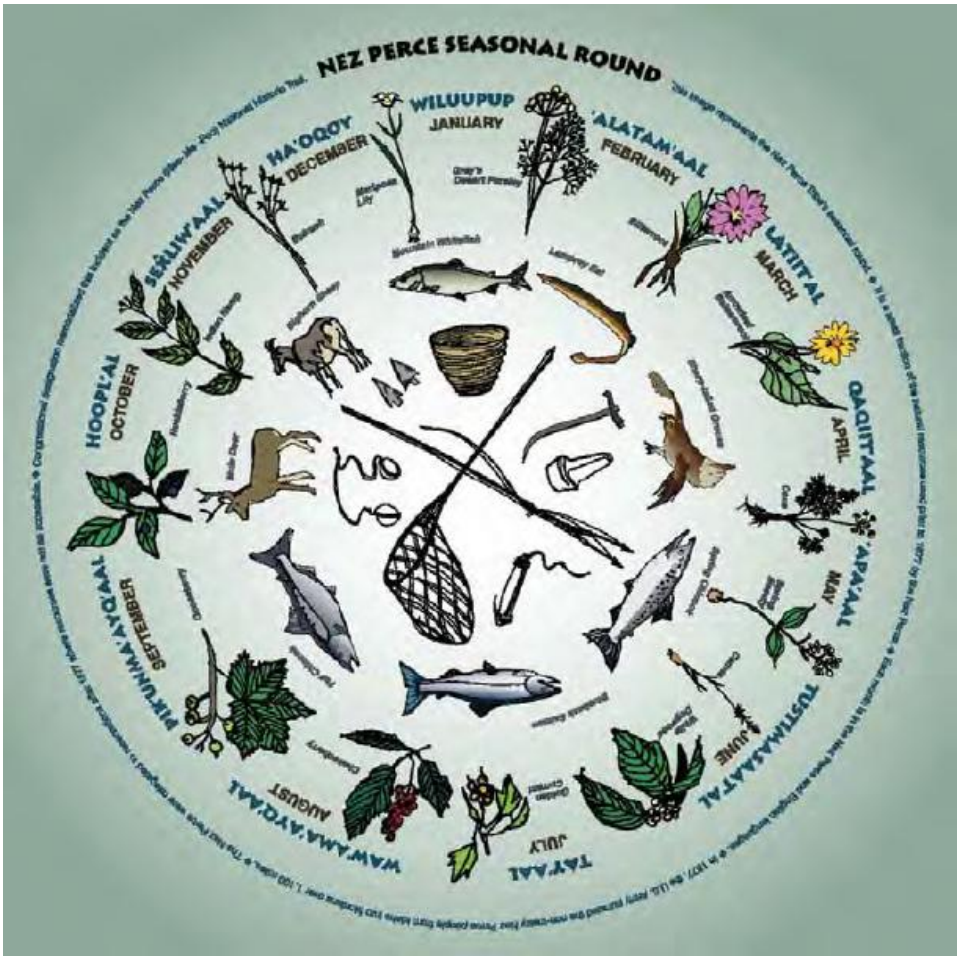


Figure 2: Nez Perce Seasonal Round depicting a calendar of resource use by the Nimiipuu' (Nez Perce Department of Fisheries Management Plan, 2013).

In the LJCRP area today, as in the past, Nez Perce tribal members:

- Exercise Treaty rights to hunt, fish and gather treaty resources including access to sites for camping and other traditional uses

- Are stewards in the management and recovery of steelhead and salmon populations in the Lower Joseph Creek watershed.
- Conduct Neotropical bird studies adjacent to the LJCRP.
- Manage for wildlife values in their Precious Lands Management Area located adjacent to the LJCRP
- Travel to the LJCRP area to continue traditional practices. Information regarding the locations and activities associated with these practices are not readily shared. The Forest continues to work toward building relationships with the Tribe, tribal staff and members so that the potential effects to the settings and values associated with access, health and use of traditional places may be understood and addressed.

See Chapter 2 of the FEIS for the existing conditions of treaty resource related to wildlife habitat, aquatics, fisheries, hydrology, and botany.

Desired Conditions

The LJCRP landscape is resilient to the threat of wildfire and disease is trending toward Historic Range of Variably (HRV)

Forest leadership continues to recognize that LJCRP contains ceded lands and usual and accustomed places where tribal members exercise reserved treaty rights and traditional cultural practices.

Forest to Tribe Government to Government consultation, and staff to staff coordination, is conducted early and often to meet Federal Trust responsibilities leading to the development effective working relationships

Tribal members exercise treaty rights freely, and treaty and cultural resources habitats are healthy and subsistence needs are met

Tribal members continue to practice traditional cultural activities that are tied to cultural identity and the continuity of culture

The Forest conducts ethnographic research in partnership with the Tribe in an effort to understand traditional economy, importance of cultural properties, and other cultural values, so that they are addressed appropriately

Tribal gathering of yew wood and boughs, medicinal plants, plant foods, fire wood, or other traditional forest products, continues into the future

The Tribe and the Forest work in partnership to plan and implement natural resource based studies and restoration projects

Ecological conditions support the Tribes fisheries and wildlife restoration programs in that they do not threaten Nez Perce Tribe Precious Lands by uncharacteristic wildfire or adverse effects to habitat resiliency

Environmental Consequences

The following assumptions are tied to the Purpose and Need for LJCRP and are considered in the following effects analysis:

• Resources associated with traditional economy values are at risk from wildfire, loss of structural and biological diversity and climate change.

• Overstocked stands reduce the sunlight available for shade intolerant traditional plants

• A lack of wild, low intensity fire is reducing regeneration of fire dependent traditional plants, forage, and browse

• Wildfires are a threat to all landscape resource values as decades worth of fire suppression has moved Ponderosa pine, and moist forest habitats, outside the range of variability.

• Restoration treatments that move landscapes towards ecological resiliency allow for increased biological and structural diversity that would benefit traditional foods and other cultural and treaty resources

• In the short term negative effects of restoration disturbance to tribal access and settings during treatment operations, may be evident on the landscape but are expected, in the long term, to protect and enhance tribal values.

• Resource data, Historic Range of Variability (HRV) models and climate change predictions are acknowledged for their uncertainty while providing the best available tools for analysis

• Some tribal members may prefer the No Action alternative due to the uncertainty surrounding the pace and scale of accelerated restoration objectives that are not "tried and true".

Table 2: Traditional Plants Known to be of Interest to the Nez Perce Tribe

Species	Common or Traditional Name	Habitat	Response to Mechanical Treatment /Soil Disturbance	Fire Response
Apocynum cannabinum	Indian Hemp or Dogbane	Proliferates in open moist margins near riparian areas along streams, springs	Grows in open disturbed areas	Increases plant vigor
Balsamorhiza (saggitata)	Balsam root	Associated with bunchgrass on well drained deep soils, extending into open stands of ponderosa pine and Doug-fir	Increases with overgrazing Likely negative effects	Survives fire because of deep tap root and woody caudex
Calochortus sp.	Mariposa Lily	Grasslands, dry forest	Likely negative effects	Positive: Deep root contributes to tolerance of low intensity fire Low-Medium tolerance
Camassia quamash	gem'es or Camas lily	Vernally moist meadows and seeps	May respond positively to light soil disturbance. Traditional Harvest activities (digging) result in positive effects	Positive: Deep root contributes to tolerance of low intensity
Claytonia lanceolata	Spring Beauty	widely scattered at mid to	Likely negative effects	Early bloomer so less risk

		high elevations in open moist grassy slopes		by wildfire
Lewisia rediviva	Bitterroot	Grows on well-drained, exposed areas. Most common in grassland communities but occurs in open areas of western shrub, woodland, & forest communities	Likely negative effects	Dormant in summer and early fall so escapes most wildfire. Susceptible to fall fires
Lomatium canbyi	q'eg'iit or biscuit root	Sagebrush steppe, scablands, rocky soils. Seeds into open areas	May respond positively to light soil disturbance. Traditional Harvest activities (digging) result in positive effects	Mostly fire evader as found in rocky soils. Has deep taproot so is likely to survive low-moderate fires
Lomatium cous	"qaamsit" or cous	Dry open scabby ridges in foothills, low mountainous elevations, lowland flats, scablands	May respond positively to light soil disturbance. Traditional Harvest activities (digging) result in positive effects	Has deep taproot so is likely to survive low-moderate fires Early blooming so evades most wildfires
Lomatium grayii	Gray's Parsley	Rocky slopes and dry grasslands, common among bunch grasses and sagebrush	Likely negative effects	Mostly fire evader as habitat in rocky soils and
Prunus virginiana	Chokecherry	Grows at low to mid-elevations in where soil and topography accumulate moisture, i.e. riparian areas, wooded draws, and steep ravines	Negative effects	Re sprouts rapidly and prolifically post fire
Ribes (lacustre)	Currents and goose berries	True fire association. Found in openings in wetter habitats i.e. cool, moist and wet forests. Intolerant found in openings in most habitats Shade intolerant	Grows well in disturbed soils. Mechanical treatment ok	Fire tolerant
Taxus brevifolia	Yew	Moist cool to wet, well drained sites beneath closed tree canopies	Sensitive to drastic change to light and temperature; especially after canopy removal	Fire intolerant
Vaccinium sp.	Huckleberry	Moist cool forests at mid to upper elevations, defines true fir site potential in the Blue Mountains	Some disturbance such as thinning is beneficial. Mechanical not beneficial	Low intensity fire benefits berry production

Table 2 does not include all of the traditional plants that may potentially exist in the LJCRP. This table only includes plants that are known to be of interest as documented in the Nez Perce Seasonal Round plants (Figure 1) and that were mentioned via personal communication with tribal members and staff. The habitat, soil disturbance and fire response information was provided in consultation with via Jenifer Ferriel, Joan Frazee, and Missy Anderson. Information regarding digging and harvest benefits to plants were provided by Nakia Williamson, personal communication and Unusual Gardens: The Nez Perce and Wild Horticulture on the Eastern Columbia Plateau (Marshall 1999).

Alternative 1- No Action

Impacts on hunting, fishing and gathering

Alternative 1 (No Action) presents a high risk to the access and availability of hunting, fishing and gathering resources. There could be detrimental effects to what remains of the historically

open fire dependent ecosystem needed to support healthy, and accessible, treaty resources and their habitats. Loss of fire dependent ecosystems now means stands are less resilient to disturbance, insects, and disease. Many traditional food plants, that also provide browse and forage for wildlife, are reliant on low intensity fire regimes for healthy reproduction (see Tribal Relations specialist's report in the project record).

Tribal input suggests that the No Action alternative may best address tribal uncertainty about scope, scale and pace of LJCRP restoration. Some tribal members may prefer to trust in "Mother Nature" (NPTEC, July 8, 2014) to do the restoration work in lieu of taking a risk on accelerated, broad scale treatments and timelines.

Need to address the true value of the landscape over economics

The LJCRP purpose and need considers both natural resource values and the contribution of the LJCRP to social and economic values. In the action alternatives, timber harvest would primarily be used as a tool to treat unhealthy stands to move landscapes toward desired, resilient conditions over time, while resulting merchantable timber may be sold through timber sales. No Action would mean that the opportunity to restore and enhance LJCRP landscape conditions would be lost or put on hold.

Tribal comments state that conservation of forest landscapes should be valued over economic benefits. The Tribe's position is that past National Forest management created the current unhealthy landscape conditions through even age management practices (i.e. "clear cutting") designed to maximize timber volume (NPTEC July 8, 2014). Therefore, for some tribal members who equate forest management with economic motivations, the effects of No Action would be preferred.

Maintain old growth legacy trees and conserve inventoried roadless areas

Old growth stands and roadless areas are valued by the Tribe for their natural, ancient settings that provide sanctuary for people and wildlife. In the short term the effects of No Action on old growth and inventoried roadless areas (IRA), barring high intensity fires or other major disturbance, would be little changed relative to their abundance or character. However, over the long term, old growth stands would continue to be encroached upon by smaller diameter trees (particularly in dry forest) that would out-compete the big trees resulting in changed biological and structural diversity. Fuel loads would build, and create high risk of disease and stand replacement fire. Landscape conditions and settings associated with traditional uses, treaty resource habitat, and other values associated with old growth stands and IRAs would decline over the long-term.

No Action negatively affects opportunities for proposed maintenance of legacy trees and establishment of new roadless areas compared to Alternatives 2 and 3. Without active management, maintenance of old growth stands and conservation of IRA values may be lost to uncharacteristic disturbances.

Resource risks of accelerated planning and restoration

Conflicts exist between the risks of conventional forest management timelines verses the risks of "doing things differently" by increasing the pace and scale of treatments (i.e., acceleration restoration). Tribal members support "trying things differently as long as you don't throw out the

tried and true" management options (NPTEC July 8, 2014), but are skeptical about accelerated restoration.

Alternative 1 would not risk any unintended adverse effects of "doing things differently", but would also not move the landscape toward shared desired conditions (i.e., a trend toward a more natural range of variation), or take advantage of the opportunity to learn the lessons of accelerated restoration. Learning through monitoring could involve the tribe in a joint effort to increase understanding of the conflicts, risks and benefits to the traditional economy conservation outlined in the action alternatives.

Impacts to traditional plant resources

In the LJCRP traditional plant habitats (including scab lands, savanna, meadows, riparian areas, seeps, dry and moist forests) are being encroached by particularly shade-tolerant conifers, primarily as a result of fire exclusion (refer to the Tribal Relations specialist's report for plant species, habitat, response to soil/ground disturbance and fire response). No Action poses high risk to traditional plant species and habitats; especially those that are shade intolerant or that respond well to low intensity fire. The majority of the plants listed in Table 48 of the Tribal Relations specialist's report need forest openings and sun to thrive. Historically the Nez Perce tribe used fire to maintain camas, "cous" and huckleberry habitats (Marshall, 1999).

Continued increased canopy cover and litter accumulation would further reduce habitat suitability for many of the species listed in the Tribal Relations specialist's report. Potential soil damage from a severe wildfire could reduce potential suitable habitat and, in the case of high intensity fire, kill plants outright.

No Action means that the opportunity to benefit LJCRP traditional plants through landscape level low intensity prescribed fire treatments, thinning of meadow and riparian encroachment, natural fire use, and creation of individual clumps and openings (Franklin et al, 2013) would be lost or delayed, compared to Alternatives 2 and 3.

Traditional cultural properties, sacred sites, and other traditional use areas

Locations and specific information and concerns associated with traditional cultural properties, sacred sites and other traditional use areas would not need to be addressed at this time if there is No Action. No Action poses unknown effects to these currently unidentified resources. However, it is assumed that the values associated with these types of cultural places, such as private settings, traditional use resources, or spiritual practices, would be potentially at risk from high intensity wildfire and other unplanned disturbance. However, in the short term, these values would not be affected under Alternative 1.

Cumulative Effects

See Wildlife, Fisheries, Aquatics, and Botany analysis for cumulative effects associated with treaty resources, habitats and tribal values.

Cumulative Effects of No Action

Past, present, and reasonably foreseeable activities primarily include administration of range allotments, motorized recreation, fire wood cutting and dispersed recreation.

No Action, along with cumulative effects of the past, present, and reasonably foreseeable activities, means no treatments would be implemented so the current tribal, social, biological and physical uses and processes would continue along their present paths; including associated risks or benefits of unplanned disturbances. Over time cumulative effects of No Action to the LJCRP would accrue; likely contributing to a higher risk of uncharacteristic disturbance and degraded ecological conditions.

See Wildlife, Fisheries, Aquatics, and Botany analysis for cumulative effects common to all associated with treaty resources, habitats and tribal values.

Tribal Effects common to action alternatives

The spatial boundary for tribal interests is the LJCRP analysis area. The temporal boundary is for the duration of project implementation, expected to be 10 years. The Forest will always recognize the Federal-Tribal trust responsibility and tier to the laws and Executive Orders that potential effects to tribal interests. Staff to staff consultation was ongoing throughout all phases of analysis, and would continue through implementation. The Forest Service would also consult with tribal staff to develop consultation, management and/or protection strategies should specific concerns arise regarding potential effects to Nez Perce traditional use areas and resources.

There would be minimal effect to traditional cultural properties and sacred sites due to the integration of implementation timing with the Nez Perce tribe. PDCs (Tribal-1 to 4) ensure this coordination takes place to minimize impact to tribal members. Existing and discovered sites would be managed to produce "no effect" or "no adverse effect" through avoidance as outlined in PDCs (Heritage-1 to 11).

Activities Common to Alternatives 2 and 3

Activities common to action alternatives include

- Up to 90,000 acres of low intensity prescribed fire, including use of natural fire, to be implemented over several years
- Thinning, and mechanical fuel treatments across approximately 20,000 acres to encourage the development of large tree structural characteristics, understory plant diversity, forage productivity, and resilience to disturbances such as wildfire.
- Thinning of largely younger trees across an additional ~ 5,000 acres, which are in the process of recovery after stand replacement disturbance, to encourage the development of spatial heterogeneity and increase the proportion of early seral tree species.
- Silvicultural treatments would generally retain and protect large trees of early seral species and trees with old growth physical characteristics consistent with historical reference conditions.

Many of the Tribal comments include concerns regarding the direct or indirect physical impacts on the land and its resources resulting from large scale restoration treatments. Therefore, the following analysis considers general scale of treatment (acres) as a metric to measure the relative degree of potential physical effects resulting from Alternatives 2 and 3 proposed treatments. Alternative 2 would treat 21,202 acres. Alternative 3 would treat 13,241 acres or 42% of Alternative 2.

Cumulative effects common to all action alternatives

Prescribed fire, thinning, dispersed recreation, grazing, timber harvest, wildfire and the exercise of treaty rights have and will continue to occur into the foreseeable future. Although tribal members are concerned about the risk of the pace and scale of accelerated restoration, ecological objectives, as identified in the purpose and need, may counter adverse effects to tribal values.

See Wildlife, Fisheries, Aquatics, and Botany analysis for cumulative effects associated with treaty resources, habitats and tribal values.

Alternative 2 – Proposed Action

Consistent with the objectives of the LJCRP Purpose and Need (see DEIS Chapter 1: Need for Restoration), Alternative 2 proposes to harvest trees greater than 21 inches, thin and mechanically remove riparian treatments in Riparian Habitat Conservation Areas (RCHAs) to attain riparian management objectives, treat designated old growth MA15 and Inventoried Roadless Area stands, decommission 39 miles, close of 125 miles and open 181 miles of road. Up to 90,000 acres of low intensity prescribed and natural fire treatments may be implemented over many years

The Nez Perce Tribe Executive Committee (scoping comment letter, February 11. 2015) shares disagreement with the cumulative, indirect and direct effect analysis regarding wildfire effects to natural and cultural resources site integrity and archaeological research values. Stating "Overall, the DEIS asserts that large-scale, catastrophic, stand replacing, intense, or uncharacteristic fires are the greatest threat to all resources, including all cultural and heritage resources. As a result, any measures expected to reduce the threat of these fires is predetermined to be beneficial. Cultural Resource Program staff agrees "that large scale fires threaten many resources, but many resources, especially precontact archaeological sites and traditional cultural properties, have burned many times in the past, and yet remain deeply significant to the Tribe and Tribal members".

Impacts on hunting, fishing and gathering and resource risks of accelerated restoration

Alternative 2 proposes 62% more acres of silvicultural treatments than alternative 3.

The Tribe's position is that the risk to treaty resources and their habitats resulting from an accelerated pace and scale of restoration is high; especially where treatments involve mechanical operations used for timber harvest. In addition, decommissioning and closing a total of 163 miles of roads is viewed negatively by those tribal members who believe decommissioning and road closures may restrict access to treaty resources. On the other hand, some tribal members view decommissioning and closing roads positively, if they restore resource values such as water quality.

Conflict remains regarding attitudes concerning needs for the conservation of treaty resources. Effects from accelerated restoration on hunting, fishing and gathering, as encompassed by the activities proposed in Alternative 2, would be positive as treatments are expected to promote landscape resiliency and move treaty resource conditions closer to HRV.

Concern for value of landscape over economic values

The Tribe's position is that economic values often drive forest management projects, including the LJCRP, at the expense of landscape resource values. The estimated economic net value from

timber harvest for Alternative 2 is -$5.9 million, demonstrating that positive economic net value is not a motivation for this alternative to be the preferred alternative.

Based on the estimation that Alternative 2 is projected to support 55 jobs and $2.9 million in labor income in Wallowa and Union counties annually over 10 years, the economic worth of Alternative 2 on Wallowa County communities would be positive. However, economic benefits to Nez Perce tribal members would likely be neutral as most tribal members live outside Wallowa County (see Socioeconomic Specialist Report).

Maintain old growth legacy trees and conservation of inventoried road less areas

662 acres of old growth, including trees over 21" diameter, would be harvested in MA15 and IRAs. Proposed treatments in these management areas would likely be considered a negative effect to the tribe. Protection of the "largest of the large" trees across 662 acres of ground could pose higher risk to legacy trees.

Short term impacts to the forest setting and select old trees would be evident. However, long term benefits from maintenance of some old trees now, to make way for more resilient stands in the future, may be realized as a positive effect.

Impacts to traditional plant resources

Eight of the twelve traditional plants listed in Table 2 are either fire dependent, respond well to low intensity fire, and/or are at low risk from fire due to location in rocky habitats or seasonal timing of the establishment of the tap root.

Proposed prescribed burning, thinning of hazardous fuels and/or meadow or riparian encroachment, where ecologically appropriate, would reduce fuel loads, increase understory productivity and diversity of many traditional plants, and allow fire to perform its natural ecological role. In addition, 741 acres of savanna and grassland habitat will be restored, benefiting plants including Indian Hemp, Balsam Root, Lily, Camass, Bitter root and various Lomatiums, including "cous".

Indirectly, since most of the plants in Table 2 are early to mid-successional and/or shade-intolerant, Alternative 2 should improve plant habitat by opening stands and removing fuels. On the other hand, yew and current (ribes) are affected negatively by canopy opening but could be protected through the development of design criteria (See Botany Specialist report).

Overall, Alternative 2 is expected to have a beneficial effect to traditional plants and their habitats. This positive response would not be realized if plant structures, seeds, and habitats are put at risk from severe or intense fire. Ability to withstand or benefit from fire depends on the species-specific response, prescribed burn technique, burning season, and environmental factors.

Most of the plants in Table 2 have probably not benefited as a result of past actions that removed large over story trees from the stand and promoted growth of numerous small trees and accumulation of litter and woody fuels. While the Proposed Action alone cannot entirely correct the current condition, it is expected to improve habitat for understory plants while the No Action Alternative poses greater risk to plant habitat.

Traditional cultural properties, sacred sites, and other traditional use areas, may be at risk from implementation of the LJCRP

In the long term, compared to No Action and Alternative 3, Alternative 2 may have more potential to protect traditional use area values from wildfire and other unplanned disturbance.

However, in the short term, 62% more treatment acres as compared to Alternative 3 poses a higher level of risk for direct mechanical effects on use areas, settings, and traditional cultural properties.

Implementation of design criteria and implementation plans (see following section) will be designed to mitigate effects.

Cumulative Effects

See Wildlife, Fisheries, Aquatics, and Botany analysis for cumulative effects associated with treaty resources, habitats and tribal values.

Alternative 3: Direct, Indirect, and Cumulative Effects

Consistent with the objectives of the LJCRP Purpose and Need (see DEIS Chapter 1: Need for Restoration), Alternative 3 proposes to meet public road access needs, allows no harvest in Old Growth MA15 stands or Inventoried Roadless Areas, and does not remove trees greater than 21 inches in diameter. A total of 12,778 mechanical harvest treatments are proposed and 2613 non-commercial stands will be thinned (see Table 3).

Impacts on hunting, fishing and gathering and resource risks of accelerated restoration

Generally, Alternative 3 effects would be the same as Alternative 2, but would involve approximately 38% of the acres of restoration treatment. In addition, there would be less road decommissioning (10 miles) and closures (125miles), with an emphasis on maintaining current public road access levels. The effects of less road decommissioning and closures, along with emphasis on public road access, would be a positive effect for some tribal members who value greater access. Tribal members, concerned more about road impacts to resource values, would likely view Alternative 3 as having a greater negative effect than Alternative 2.

Concern for value of landscape over economic values

Generally, the effects would be the same as Alternative 2, but the estimated economic net value from timber harvest for Alternative 3 would be -$5.1 million, compared to -$5.9 million for Alternative 2. This demonstrates that the overall positive economic net value is not a motivation for this alternative. It is estimated that 34 jobs will be created and 1.9 million labor jobs could be created over 10 years.

Maintain old growth legacy trees. Conservation of inventoried road less areas

Alternative 3 would not allow harvest in MA15 stands or IRAs, and does not remove trees greater than 21 inches in diameter. Based on meetings with tribal staff (See Tribal Consultation and Coordination Record, Appendix G; and DEIS comments in the project record) effects of Alternative 3 on tribal values and concerns are expected to be positive. However, in the long

term, threats to old growth and IRA values would likely increase without landscape treatments designed to create resilient landscapes and biological and structural diversity..

Resource risks of accelerated restoration

Generally, the effects of Alternative 3 would be the same as Alternative 2 regarding tribal concerns but potential effects are commensurate with the smaller extent of proposed vegetation treatments. Effects to tribal values in the long term may be more adverse due to reduction of restoration acres treated; including no treatment of threatened old growth and IRAs.

Impacts to traditional plant resources

Generally, the effects of Alternative 3 would be the same as Alternative 2, but less acres of plant habitat would be restored, possibly resulting in declining plant diversity and resiliency over time

Traditional cultural properties, sacred sites, and other traditional use areas, may be at risk from implementation of the LJCRP

Generally, the effects of Alternative 3 would be the same as Alternative 2, but at a lesser scale of risk.

Cumulative Effects

See Wildlife, Fisheries, Aquatics, and Botany analysis for cumulative effects associated with treaty resources, habitats and tribal values.

Design Criteria

Protection measures for this project include both project design criteria and standard design features. Project design features include mitigations designed to reduce or prevent undesirable effects from proposed activities. They may include avoiding the effect, minimizing or mitigating the effect by limiting the action, rectifying the effect, reducing the effect through maintenance, or compensating for the effect. Unless otherwise noted, these project design features apply to potential effects on the health and integrity of treaty and cultural resources including activities associated with the exercise of treaty rights and traditional cultural practices.

Tribal – 1

Consult with The Nez Perce Tribe in compliance with Trust Responsibility NHPA, AIRFA, EO 13007, EO 13175, and other applicable Executive Orders and legislation, particularly if new information regarding sensitive traditional use sites, or other potential properties within the area of potential effect, are revealed or discovered

Tribal – 2

Once treatment areas are laid out and marked on the ground, maps of the area will be shared with tribes through on-going consultation to determine if previously unknown sensitive tribal areas could be potentially impacted.

Tribal – 3

The Forest should share operations schedules and treatment locations with the Tribes prior to management activities in an effort to minimize timing conflicts with, or impacts to, traditional uses such as plant gathering, hunting and fishing, ceremonial uses or family gatherings.

Tribal – 4

If at any time within project planning or implementation Traditional Cultural Properties or Sacred Sites are identified or discovered the Nez Perce Tribe will be contacted and management plans and/ or protection measures will be developed.

References

Nez Perce Tribe Executive Committee (NPTEC), Public Comments, January 28, 2014

Nez Perce Tribe Executive Committee (NPTEC), Consultation Meeting, July 8, 2014

Nez Perce Tribe Executive Committee (NPTEC), Consultation Meeting, June 9, 2014

Nez Perce Tribe Department of Fisheries Resources Management. Management Plan. 2013-2038. July 17, 2013

Mora, Guy, Public Comments letter, Confederated Tribe of Colville Reservation, January 17, 2014 Precious Lands Management Plan (Sondenaa and Kozusko, 2003)

Unusual Gardens: The Nez Perce and Wild Horticulture on the Eastern Columbia Plateau. Alan G. Marshall. Northwest Lands, Northwest Peoples: Readings in Environmental History. Edited by Dale D. Goble and Paul W. Hirt. University of Washington Press. 1999.